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OFFICE OF PETITIONS

In re Application of :
Benjamin J. Metcalf :
Application No. 10/019,164 : DECISION ON PETITION
Filed: December 20, 2001 :
Attorney Docket No. 33,484-00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 2005 to revive the above-identified application.


The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 12, 2005, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 13, 2005 (a three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained). See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), fee of \$750, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 1645 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the submission under 37 CFR 1.114.


Frances Hicks
Petitions Examiner
Office of Petitions